



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0352]

Commercial Driver's License Standards: Application for Exemption; Recreation Vehicle Industry Association

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Recreation Vehicle Industry Association (RVIA) has requested a limited exemption from the Federal requirement to hold a commercial driver's license (CDL) for transporters of certain newly manufactured motorhomes and recreation vehicles (RVs) that are individually transported one at a time and are always empty. RVIA is requesting the exemption because compliance with the CDL requirements prevents its members from implementing more efficient and effective operations. The exemption would apply to individuals who are employees of U.S. driveaway-towaway companies, RV manufacturers, and RV dealers transporting RVs between the manufacturing site and dealer location and for movements prior to first retail sale. The exemption would apply when transporting RVs with an actual vehicle weight not exceeding 26,000 pounds, or a combination of RV trailer/tow vehicle with the actual weight of the towed unit not exceeding 10,000 pounds and the gross combined weight not exceeding 26,000 pounds. RV units that have a combined GVWR rating exceeding 26,000 pounds would not be covered by the exemption. RVIA believes that such a change would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2014-0352 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number.

For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov at any time and in the box labeled “SEARCH for” enter FMCSA-2014-0352 and click on the tab labeled “SEARCH.”

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment

(or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mrs. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR

381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

The Recreational Vehicle Industry Association (RVIA) is the national trade association representing recreational vehicle (RV) manufacturers and their component parts suppliers who together build more than 98 percent of all RVs produced in the United States. An RV is a vehicle designed as temporary living quarters for recreational, camping, travel and seasonal use. RVs may be motorized (motorhomes) or towable (travel trailers, fifth wheel trailers, folding camping trailers and truck campers).

The RVIA is requesting an exemption to the CDL requirements under 49 CFR 383.91(a)(1) – 383.91(a)(2) when transporting RVs with an actual vehicle weight not exceeding 26,000 pounds, or a combination of RV trailer/tow vehicle with the actual weight of the towed unit not exceeding 10,000 pounds and the gross combined weight not exceeding 26,000 pounds. RV units that have a ship weight and combined GVWR rating exceeding 26,000 pounds would not be covered by the exemption. RVIA contends that compliance with the CDL rule prevents its members from implementing more efficient and effective operations. RVIA asserts that FMCSA should look at the actual weight of the RV when it is manifested as empty and should not require a CDL

during the short time the RV is not loaded, does not carry freight and is transported from the factory where they are manufactured, or from a holding area to a dealership site.

In its application, RVIA contends that a shortage of drivers with CDLs is having a significant impact on the RV industry, which is just recovering from the 2008-2009 economic downturn. A large percentage of RV sales occur during the spring buying season. The jump in RV shipments trends stronger each month, thereafter increasing consistently from February through June. These excess units regularly accumulate in RV transporters' yards. It is in this period that there is insufficient commercial driver capacity for RV transportation. This commercial driver shortage, which is seasonal, creates delays in the delivery of product to consumers and potentially reduces the RV sales volume and the overall number of drivers employed by the RV industry.

Consumers who wish to purchase an RV may have to wait weeks or months to receive delivery of their purchase because there are not enough drivers with CDLs to transport the vehicles from the factory to the dealership, especially since each RV must be individually transported. While these delays are costly and inconvenient to the RV industry and consumers, the greater costs result in potential lost sales from consumers who are unwilling to wait for their purchase.

RVIA states that the exemption would apply to individuals who are employees of U.S. driveaway-towaway companies, RV manufacturers, and RV dealers. RVIA contends that due to the class nature and the number of parties that will be affected thereby, it is not feasible or practicable to provide the names of individuals or transporters responsible for use or operation of these CMVs. RV units that have a ship weight and combined GVWR rating exceeding 26,000 pounds would not be covered by

the exemption. RVIA asserts that exempting delivery for a subset of newly manufacturer RVs from the Class A and B CDL requirements would likely result in the level of safety equivalent to, or greater than, the level achieved without the exemption.

RVIA asserts that there is compelling evidence that safety records for RV transport companies delivering RVs from the manufacturers to dealers is and will continue to be better than the cited statistics in its application for drivers using RVs for recreational purposes if the requested exemption is granted.

RVIA contends that if the exemption is granted the level of safety associated with transportation of RVs from manufacturers to dealers is likely to be equivalent to, or greater than, the level of safety obtained by complying with the FMCSA regulation for the following reasons:

- On average, drivers employed by RV manufacturers and dealers to deliver RVs have substantially more experience operating RVs than an average driver operating an RV for recreational purposes.
- A thorough analysis using the FMCSA Safety Measurement System revealed that the majority of RV driveaway-towaway companies' accident frequency average of 0.234 recordable accidents per million miles traveled in 2012, is far less than the national average of 0.747 recordable accidents per million miles traveled that was used as a benchmark by the FMCSA in fiscal years 1994-1996 when developing criteria for "Factor 6, Accident" of the "safety rating process."
- FMCSA established an "unsatisfactory rating" threshold for all carriers operating outside of a 100 mile air radius with a recordable accident rate greater than 1.5 accidents per million miles traveled. Accordingly, RV driveaway-towaway

accident frequency is approximately 640% less than the FMCSA unsatisfactory rating threshold for 2012, the most recent year for which data is available.

- Compared to drivers using RVs for recreational purposes, RV manufacturers and driveaway-towaway companies have substantially greater economic incentive to systematically train, monitor and evaluate their RV drivers with respect to safe operation of RVs because of substantially greater exposure to liability for any traffic accidents.
- As with any motor vehicle, newly manufactured RVs are much less likely to present a safety concern on account of mechanical failures.
- Travel distances between the manufacturing sites and dealer locations are on average much shorter than typical distances which RVs travel when in recreational use and the highway presence of RVs transported from manufacturers to dealers is negligible even during the peak spring delivery season.

RVIA asserts that without the exemption, one –time deliveries of new RVs with a GVWR exceeding 26,000 pounds or a GCWR exceeding 26,000 inclusive of a towed vehicle with a GVWR of 10,001 pounds or higher will continue to remain subject to CDL requirements and other FMCSA regulations even though end users of RVs purchasing them from dealers in the same states would not be subject to those requirements and regulations. This anomalous situation will continue to materially curb the growth of the RV industry without countervailing safety or other benefit to the public. In particular, RV manufacturers and dealers will continue to experience shortage of CDL operators during the busy spring season.

A copy of RVIA's application for exemption is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on RVIA's application for an exemption from the CDL requirements of 49 CFR part 383. The Agency will consider all comments received by close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.] Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: September 24, 2014

Larry W. Minor
Associate Administrator for Policy